

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**NOV 21 2003**

CATHY A. CATTERSON

U.S. COURT OF APPEALS

ROB PUCCI; et al.,

No. 02-35732

Plaintiffs - Appellants,

D.C. No.

CV-01-01347-AJB/JMS

v.

RENT A-CENTER, INC., a foreign  
corporation,

MEMORANDUM\*

Defendant - Appellee.

Appeal from the United States District Court  
for the District of Oregon  
Anna J. Brown, District Judge, Presiding

Argued and Submitted November 7, 2003  
Portland, Oregon

Before: GOODWIN, ALARCON, and RAWLINSON, Circuit Judges.

Whether or not to award attorney fees pursuant to 28 U.S.C. § 1447(c) is left to the district court's sound discretion, "to be exercised based upon the nature of the removal and the nature of the remand." *Moore v. Permanente Medical Group*,

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

*Inc.*, 981 F.2d 443, 446 (9th Cir. 1992) (quoting Commentary on 1988 Revision by David D. Siegel at 28 U.S.C.A. § 1447, p.58 (West Supp. 1992)). Appellants' contention that the district court's remand order without awarding attorney fees was an abuse of discretion is without factual support in the record. The record reflects that Rent-A-Center had an arguable basis for removal, and that its notice of removal was neither unreasonable nor frivolous. Therefore, the district court acted within its discretion in denying appellants' motion for attorney fees. *See id.* at 447.

**AFFIRMED.**